

**ZONING BOARD OF APPEALS  
SATURDAY, SEPTEMBER 28, 2013  
4:00 P.M.**

**Present:** Chairman Ogden Lewis, T. David Mullen, Charles Mott, Alexander Ames, Robert Treuhold, and Village Attorney Richard DePetris

**Absent:** Brendan Ryan

1) Mr. Lewis brought the meeting to order. He said the next meeting would be on **Saturday, November 2, 2013 at 4 PM**. The board then approved the minutes of the August 24<sup>th</sup> meeting in to the record.

2) The first item on the agenda was the application of **Andrew and Ivy Rosen** for a lot coverage variance to 23.26% in order to permit proposed patio/terrace and proposed deck. Premises are known as **28 Midhampton Avenue. TM #902-2-1-54.7**

Attorney **Kittric Motz** was present to represent **Dr. and Mrs. Rosen**, who were also present for the discussion. Attorney Motz explained that since the application was filed they had reduced their requested lot coverage variance from 23.26% to 22.4%. She had presented packets to the board containing surveys from September of 2013, along with photographs of the property at the time of purchase December 2012. There was also other surveys and pertinent information contained in the packets. When the Rosen's filed for the building application for the garage, they were not aware that they needed a variance for increased lot coverage since the engineer that was hired, through the contractor, had miscalculated the lot coverage. Their building permit was issued and their construction began. The contractor also neglected to file for the permit for the reconstruction of the terrace. Because of their desire to construct an additional deck behind the garage and attach it to the house, the problem with the lot coverage was discovered. There were deck improvements from the 80's, which had been made before her clients owned the property, which had increased the lot coverage. The Rosens wanted to keep the terrace and patio, incorporate the preexisting lot coverage, and add the small proposed deck between the garage and the house.

**DECISION: MR. LEWIS MOVED TO GRANT THE ROSEN APPLICATION FOR A LOT COVERAGE VARIANCE TO 22.4% AS SHOWN ON THE REVISED SURVEY. MR. TREUHOLD SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

3) Next was the application of **Brooke Barrett** for setback variances in order to permit proposed elevated walkway on a right-of-way which extends from Dune Road to Quantuck Bay. Said right-of-way is located on premises known as **13 Dune Road, 9A Dune Road, and 9 Dune Road. TM #902-12-1-9, 8.1 and 8.2.**

Attorney **Robert Kelly** was present for the applicant. The proposed walkway would be 18" high, with no handrail, and 60% open grate, so grasses could grow underneath. Since they had already received a permit from the DEC, they felt the walkway would have no negative environmental impact. His client did not own the properties but had the right to cross over all three properties. **Tom Lawson**, the owner of one of the adjacent properties, came forward to say that he had concerns because there were already at least 8 deeded R-O-W's going over the properties from houses on the ocean to the bay and now there would be two, 4 foot board walks going through to the woods. Mr. Lawson's idea was to get the people who own the right-of-ways together and maybe build one nice R-O-W that they would all co-own and co-manage, in order to eliminate going through this kind of situation over and over again. He also felt that the minute a R-O-W was installed in the area that was meant to be private, people on bikes and foot, by nature, would go exploring just to see what's there, thereby trespassing and eliminating the privacy of the area. He felt that once the area was opened up for the new walkway, it would change the nature of the neighborhood with people constantly taking a look. Mr. Kelly said he had not been aware of 8 other side-by-side walkways going through the subject area. The board was wondering if Mr. Kelly's client would object to a gate at the walkway. Mr. Kelly said he was sure his clients would not object to a gate, but the gate would seem to make it more visible and obvious to those passing by.

**DECISION: MR; LEWIS MOVED TO GRANT THE BARRETT APPLICATION IN CONNECTION WITH THE WALKWAY. MR. MOTT SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

4) Next was the application of **Noah Walley and Kristina Wollschlanger** for minimum side yard variances from northerly and southerly side lines, total side yard variance, and height within required yard variance in order to permit proposed additions to existing house. Premises are known as **112 Jessup Avenue. TM #902-9-1-14**

**Kristina Wollschlanger** was present for the discussion. She explained that because they had an undersized lot it made it difficult to make their addition without a variance. She felt that the only neighbor that would be impacted by their addition would be their neighbor to the north and he had, in a letter, explained that he did not object to their application. With the use of a survey, Ms. Wollschlanger showed the board the subject property and the adjoining property which they owned.

**DECISION: MR. LEWIS MOVED THAT THE WALLEY/WOLLSCHLAGER APPLICATION BE GRANTED. MR. TREUHOLD SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**



5) The last matter on the agenda was the holdover application of **David Marr**. Premises are known as **61 Dune Road. TM #902-13-1-12.**

Mr. Lewis indicated that the board had received submissions dated September 20, 2013, from the architect Robert Gruber, on the revised plot plan, dated 9/24/13, as well as a letter from Mr. Marr's attorney, Lisa Kombrink. Attorney **Lisa Kombrink** was present for the applicant. She explained that in their new proposal the structure that is closest to the canal (structure A) is would remain at a setback of 19.2 feet from the canal and the side yard setback would be 22 feet while the existing setback is 2.4 feet. They are now requesting a height setback within a required yard of 26.5 feet. For the middle structure (structure B), they would be maintaining the canal setback at 41.2 feet and they would require a height variance within the required yard to 16.4 feet. With respects to the front house (structure C) they would be requesting a front yard setback to 35 feet for the porch. In reference to the decking, they had reduced the square footage 582 SF. Ms. Kombrink had already submitted a breakdown with the square footage of each deck, first and second floors, for each dwelling and then the total for each house. Finally, there was information showing the overall total square footage of decking, which is 1,958 SF., being requested. She felt they had made significant reductions. She did want it mentioned that all second floor decks were over existing structures, over the roof area of a first floor. In reference to the Hoogkamp property to the east, Ms Kombrink explained that the Hoogkamp structure was only 11.7 feet from the property line, for which they had received a variance from the board in 2007. He had also been granted a height variance to elevate his house, the same as Mr. Marr was requesting for his structures, to protect them from flooding. Mr. Hoogkamp's dwelling was approximately 30 feet from the canal. In reference to Mr. Weiner, across the canal, Ms. Kombrink explained that he had received a variance to make his structure only 15 feet from the canal. Earlier that day, Ms Kombrink had received a large packet from Mr. Weiner's attorney, Mr. Sklar, and she wanted an opportunity to respond to the information contained therein.

Mr. Marr's architect, **Robert Gruber**, came forward to say that they had lowered each house from what they had previously submitted. Structure A was originally at 13 feet and was lowered to elevation 11 feet, just high enough to be above the flood plain by 2 feet. House B was originally at elevation 11 and they were lowering it to elevation 10, making it 2 feet above the 8 foot flood plain. House C was also lowered to elevation 10, from elevation 11. By lowering the structures, it also lowered all the decks, making them (the decks for houses A & B) within 30" of grade and therefore not required to have railings. House B has a proposed multi-level deck, with part of the deck dropping 2 steps lower than the first floor.

Attorney **Theodore Sklar** came forward to represent Mr. Weiner. He submitted a packet of information summarizing all their concerns. In reference to the proposed decking, he explained that if you add all the new first floor decking, it totals 1,494 SF. for all 3 structures. He had a problem with the fact that the proposed additional decking was greater than the square footage of structure C, which was only 1,376 SF. He felt that should be



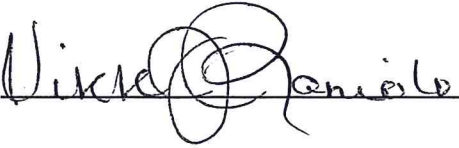
an extremely substantial deterrent to the variance. In reference to the second story decks being built over first floor roofs, Mr. Sklar felt that no second floor decks could be installed without demolishing the rooflines of the existing structures, turning them in to flat roofs, and then putting on the second story decks. He felt they would therefore be creating a flat roof, and changing the historical significance of the bungalows. He felt that they were not just trying to protect the structures from flooding but were instead trying to improve the value of the property. Mr. Sklar indicated that Mr. Marr had not submitted any Line-Of-Sight studies to demonstrate what the impact of the proposed project would have on Mr. Weiner's property or any other property. The middle structure, structure B, would be moved in the Line-Of-Sight of Mr. Weiner. He felt Mr. Marr should have submitted the same types of information that Mr. Weiner did when he was looking for his variances such as photographs and models of the structures now and after completion of the proposed work, for the board to review. He explained that when the structures were enlarged Mr. Marr would have to request 2 car parking spaces in order to comply with village code, and he had made that request. Mr. Sklar also wanted to know why, as a condition of the granting of the variances, Mr. Marr was not required to give up his multi-family use as Mr. Weiner was required. Mr. Sklar felt there might have been a mathematical error with the height of one of the structures. He indicated that Mr. Marr had shown no alternatives to their requested variances as is always required by an applicant.

Attorney **Kittric Motz**, also representing Mr. Weiner, wanted to make a clarification saying that the proposed deck on structure A is 916 SF. and the house is 2,600 SF. according to what she called the later plans that were submitted, and that was a 35.19% increase in outdoor living space. For structure B, the proposed decking, (first and second floor) is 875 SF. on a dwelling that is presently at 2,322 SF., which is a 37.6% expansion. On structure C, there is just one story with 168 SF. of decking on a 1,376 SF structure making it a 12.2% change in outdoor living space. She explained that her number was the same as Ms. Kombrink's being 1,958 SF of new decking. She added that the existing structures, according to Mr. Gruber's information, were a total of 6,298 SF. making the decking a third of the square footage of the structures.

Ms. Kombrink explained that they were not enlarging any of the structures and did not feel they needed any variances for the decks because they were not considered an expansion. Mr. DePetrus explained that yes, they did need variances for the decking because of the nonconforming use. She felt they were not encircling the houses with decking. She felt she would like to address most of Mr. Sklar's comments in a written submission to answer any technical questions.

Mr. Gruber explained that the recent survey submitted showed a driveway entering the site on the east side, leading to a parking area designed with 6 parking stalls, 2 for each house. He also explained that if structure B was not moved to the proposed location there would not be room to install a proper sanitary system as per SCDH standards. The existing systems do not now meet Suffolk County Dept. Health standards as they are too low and when the area floods, sewage leaches into the canal. What they have proposed will make things better environmentally.

**DECISION: MR. LEWIS MOVED TO ADJOURN THE MARR APPLICATION TO THE NEXT MEETING ON NOVEMBER 2, 2013. MR. AMES SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.**

Respectfully submitted by:  File date: 10/28/13